

REMARKS

Claims 1-21 are pending in the application.

Claims 1-21 have been objected to.

Rejection of Claims under 35 U.S.C. § 102

Claims 1-21 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,896,530 issued to White (“White”). Applicants respectfully traverse this rejection.

“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *See, e.g.,* MPEP 2131.01. Independent Claim 1 contains limitations related to configuring and using a dynamic computing environment (“DCE”) in multiple phases of a software lifecycle. As support for the proposition that White discloses the limitations of Claim 1, the Final Office Action cites largely to a four-line excerpt from the first paragraph of White’s Summary of the Invention section (White 3:40-44). Applicants respectfully submit that this excerpt does not provide disclosure of every limitation that it is cited against. Applicants further submit that the Final Office Action misuses the text by applying the text in a manner that results in terms within the text having multiple unsupported meanings. Applicants also submit that other sections of White cited by the Final Office Action do not disclose certain limitations of the dependent claims. For these reasons, as detailed below, Applicants respectfully request the Examiner’s reconsideration of the rejections of the claims based on White.

White generally relates to a system in which a plurality of computing platforms can distribute and share information via a database system in order to allow those

computing platforms to perform cooperative processing. The section of White cited in the Final Office Action against many of the pending claims and claim limitations is an initial summary of the White invention.

In view of the above problems associated with the related art, it is an object of the present invention to provide a system and method of computer software architecture for enabling a plurality of computers, and associated computer resources, some or all of which may be heterogeneous [sic] in configuration, to cooperatively process applications, including applications built from a single application source base.

White 3:39-45. This cited text is used in the Final Office Action to reject under § 102 every limitation of independent Claim 1. In doing so, the Final Office Action interprets certain passages of this text with multiple meanings. For example, “a plurality of computers” is interpreted to correspond to the first and second subnet (Final Office Action, p. 3); “associated computer resources” is interpreted to correspond to both subnets (Final Office Action, p. 3, 4) and storage devices (Final Office Action, p. 3, 5); “some or all of which may be heterogeneous in configuration” is interpreted to correspond to a distributed computing environment, a DCE composed of subnets, and several subnets [with regard to Claim 5] (Final Office Action, p. 3); similarly, “to cooperatively process applications” is interpreted to correspond to phases, instructions on a storage device, multiple tasks processed simultaneously [with regard to Claim 3], executing instructions [with regard to Claim 5] and multiple tasks processed simultaneously [with regard to Claim 5]. Applicants respectfully submit that the disclosure of White and the context of the cited section does not support such morphing of the disclosure language. Moreover, such multiple interpretations of White are not logically consistent, and thus White is not reasonably susceptible to such interpretation.

Applicants respectfully submit that the cited passage of White does not disclose subnets as claimed. The Final Office Action improperly merges “a plurality of computers” with subnets. Claim 1 clearly distinguishes between a subnet and a computing device coupled to that subnet by specifically providing for allocation of a subnet separately from allocating of computing devices coupled to that subnet. Further, subnets and computing devices are distinctly treated within the Specification of the present patent application. *See, e.g.*, Application 7:3-16. Applicants further submit that it is inappropriate to link subnets with “associated computer resources” because nowhere within White is reference made to the term “subnet” and especially to the concept of linking a subnet to computer resources. Therefore, White fails to provide enabling disclosure of subnets as required for a reference to be anticipatory of the recited claim limitations. Applicants also respectfully submit that linking subnets with “associated computer resources” is inconsistent with the context of the cited passage. Enabling a plurality of computers and associated resources to cooperatively process applications does not necessitate the allocation of a subnet as claimed and therefore subnets cannot be said to be implicitly disclosed by the cited passage.

Applicants further respectfully submit that White 3:40-44 fails to disclose the “allocating” limitations of Claim 1. The cited section merely presents a computer software architecture “for enabling” computers and resources “to cooperatively process applications.” No disclosure of the claimed allocations, as that term is used in the present application, is provided. Further, the Final Office Action provides no factual support for why “allocation” of the claimed resources should be considered implicitly disclosed. Should the Examiner be taking official notice of this of allocation of claimed resources, such facts “must be ‘capable of such instant and unquestionable demonstration as to defy

dispute.” MPEP 2143.03A (quoting *In re Knapp Monarch Co.*, 296 F.2d 230 (CCPA 1961)). Applicants respectfully submit that such an assertion here does not rise to this very high level.

The Final Office Action also responds to discussion by Applicants in response to the previous Office Action. The Final Office Action cites to White 7:51-52 as support for disclosure of a DCE. Applicants respectfully submit that the cited section of White relates to modifying information packets destined for devices in order to conform with device characteristics present at the time of supplying those information packets. The cited section does not describe a dynamic computing environment as disclosed in the present invention (*See, e.g.*, Application, pp. 7-9). The citation does not relate to processors, software, subnets or storage devices, which are among the component parts of the claimed distributed computing environment. The Final Office Action also cites to that same passage for the alternate posited disclosure of virtual subnets and virtual computing devices. Again, this citation cannot be said to describe allocation of devices given the context of that citation.

The Final Office Action also cites to White 3:40-44 for the proposition that White discloses virtual subnets and virtual computing devices. But, as pointed out above, White makes no disclosure whatsoever of any concept that could even be interpreted as the claimed subnet, and so cannot be said to disclose the claimed virtual subnets, as that term is defined within the Application. Further, within the cited section of White, the “plurality of computers” that are disclosed are being enabled to cooperatively process applications and therefore cannot be said to be virtual computing devices within the meaning of that term as supplied by the present application.

In responding to discussion related to Claim 7, the Final Office Action cites to White 18:3-5 and White 7:51-52 as disclosure of the claimed re-provisioning or providing a clean environment in the event of an error. Applicants respectfully submit that White 18:3-5 does not relate to errors; instead the cited section relates to an installation in a new system or redeploying a new release. Applicants further respectfully submit that White 7:51-52, as stated above, relates to modifying information packets destined for devices in order to conform with device characteristics present at the time of supplying those information packets and has no relation to re-provisioning a clean environment in the event of an error. Neither cited section contains any disclosure of an error condition or responding to an error condition. Further, White 18:3-5 is not directed toward the claimed re-provisioning, but rather to either initial installation or a redeployment when a new release is issued.

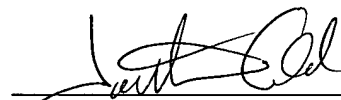
For at least these reasons, Applicants respectfully submit that independent Claim 1, and all claims dependent thereon, and those claims implicated by the responses to remarks in the Final Office Action are allowable over White. Therefore, Applicants respectfully request the Examiner's reconsideration of the rejections in the Final Office Action and the withdrawal of same.

For the same reasons discussed above, Applicants further submit that independent Claims 20 and 21 are also in condition for allowance and Applicants respectfully request the Examiner's reconsideration and withdrawal of the standing rejections.

CONCLUSION

In view of the amendments and remarks set forth herein, the application and the claims therein are believed to be in condition for allowance without any further examination and a notice to that effect is solicited. Nonetheless, should any issues remain that might be subject to resolution through a telephonic interview, the Examiner is invited to telephone the undersigned at 512-439-5090.

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Mail Stop AF, COMMISSIONER FOR PATENTS, P. O. Box 1450, Alexandria, VA 22313-1450, on August 30, 2005.

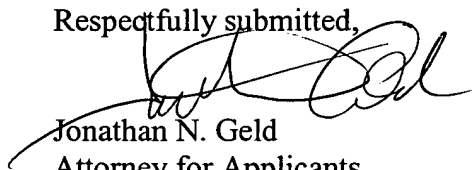


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8/30/2005

Date of Signature

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